Selected Reports and Legislative Initiatives 2005-07 
to Address Racial Disproportionality 
in State Child Welfare Systems

http://www.ncsl.org/programs/cyf/racialequity.htm

The National Conference of State Legislatures (NCSL)

MAINE

2005 Me. Laws, LD 415, Chap. 118
Establishes a committee to examine the extent to which the state complies with the federal Indian Child Welfare Act of 1978 (ICWA) and to identify ways in which to improve compliance. Sets committee membership and required a report, by December 7, 2005, to the Joint Standing Committee on Judiciary and the Legislative Council. The report must include findings and recommendations and suggested legislation.

MASSACHUSETTS

“First, do no harm” – A Report of the Massachusetts House Committee on Child Abuse and Neglect – March 28, 2007 Excerpt:

READY FOR LEGISLATIVE CONSIDERATION

Turn control of the spotlight over to the new secretary. Create the secretary of child welfare and the board of child abuse and neglect (as described elsewhere in the document). To be effective immediately.

Mandate a 5-year comprehensive plan to coordinate child welfare efforts. Require the secretary of child welfare to submit a rolling 5-year plan with specific benchmarks (updated annually or sooner) that coordinates and integrates child welfare efforts across state agencies. To include legislative recommendations, if appropriate. To be effective immediately.

Requirements of the plan are in the following section.

Require improved legislative reporting from DSS. Specify that annual and quarterly reports to the legislature be addressed to relevant committees and include results of continuous quality improvement and quality service reviews, as well as longitudinal analysis and narrative updates on reform efforts, particularly as they affect high-risk cases and children of color. Reports to include legislative recommendations, if appropriate. To be effective immediately.

Codify and implement Family Engagement Model. Provide statutory exemption to allow DSS to demonstrate and evaluate differential response to allegations of child abuse and neglect using the Family Engagement Model. To be effective immediately.

Change screening and investigatory time limits. Pending statewide implementation of FEM, change the time limits for completing non-emergency investigations of 51A reports from 10 calendar days to 15 working days, with a waiver provision if deemed necessary by the area director or by law enforcement. This would allow adequate time to complete necessary collateral checks and allow for proper coordination with criminal investigations if necessary. To be effective immediately.

Require explicit response from DSS about the plan to handle high-risk children. Chronicle the fate of those cases involving serious harm (25% of supported 51As), and status of the risk assessment toll (SDM). Report back to the legislature within 30 days and periodically

Require explicit response from DSS about its efforts to address disproportionality. Request a detailed explanation from DSS of their current and future initiatives to reduce overrepresentation of children of color in the child welfare system. Report back to the legislature within 30 days and periodically thereafter. To be effective immediately.

Require annual report from DA’s about criminal prosecution of serious child abuse and neglect cases. Request analysis from local district attorneys about the types of child abuse and neglect cases referred by DSS. Include rationale for not prosecuting certain cases and submit any recommendations to improve criminal prosecutions of child abuse and neglect. To be effective immediately.

Maintain medical resources for area offices. Continue funding for medical staff to assist social workers when investigating suspected child abuse or neglect cases that have medical complications.

Insure equitable processing of CORI waivers. Require that CORI waivers be reviewed by two persons so that judgments made to approve or deny waivers affecting the placement of children are reached equitably.

Require training for certain mandated reporters. Require those mandated reporters whose professions are licensed by the state to complete training so they are better qualified to recognize and report suspected child abuse and neglect. To be effective 1/1/2009.

Increase statutory penalties for willful failures to report serious child abuse and neglect. Increase civil penalties, impose potential jail time and allow possible loss of professional license for those mandated reporters who willfully refuse to notify DSS about serious child abuse or neglect. To be effective immediately.

Link community policing funds to law enforcement efforts to improve child welfare. Insert budgetary language to prioritize those community policing grants that include a focus on child abuse and neglect issues and/or coordinate domestic violence and child welfare efforts. To be effective 7/1/2008.

Support the Massachusetts Child Welfare Institute. Support continued funding for the coordinated, statewide training of social workers and other DSS staff offered through CWI.

Monitor Family Networks and lead agencies. Require semi-annual reporting on the status of Family Networks and the lead agency model. Focus particularly on issues of accountability, cost, quantity and quality of services provided. To be effective immediately.

Codify minimum educational requirements for DSS social workers and supervisors. Following the current hiring practices of the agency, require bachelor’s degrees of social workers and master’s degrees in social work and related fields for supervisory staff. To be effective immediately.

Codify end-of-life procedures. Place major components of the DSS policy on life-sustaining medical treatment into statute, including the commissioner’s approval of the agency’s recommendation and the requirement of opinions from two different medical institutions and the hospital’s ethics committee. To be effective immediately.

Allow public end-of-life court hearings. Following the advice of Justice Spina in a recent SJC opinion, open end-of-life hearings for children in the DSS custody to the public. To be effective immediately.

Change the name. Change the name of DSS to the Department of Children and Families to sharpen its primary focus and mission of keeping the best interests of children paramount and working to strengthen families for the sake of children at risk. To be effective immediately.
MICHIGAN

Sec. 548. Requires a task force to study the disproportionate representation of African-American and other children of color in the child welfare and juvenile justice systems in Michigan. Requires a report to the Department of Human Services with administrative and legislative recommendations for appropriate services to reduce disparities and bias and improve long-term outcomes for children of color in the systems. Requires the Department of Human Services to report to the Legislature by December 31, 2005.

MINNESOTA

2005 Minn. Laws, 1st Special Session, HF 139A, Chap 4, Art. 3, Sec. 8
Allows the Commissioner of Human Services to authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. Authorizes grants to Indian tribes for that purpose.

MONTANA

2005 Mont. Laws, SB 86, Chap. 349
Defines terms related to the implementation of ICWA and clarifies the role of a qualified expert witness in cases involving Indian children in proceedings subject to ICWA.

NEW MEXICO

2005 N.M. Laws, SB 233, Chap. 189
Sec. 37. Specifies the following placement preferences for Indian children taken into state custody: a member of the child’s extended family, a foster home licensed and specified by the child’s tribe, an Indian foster home licensed or approved by an authorized non-Indian licensing authority, or an institution for children approved by the child’s tribe or operated by an Indian organization.

2005 N.M. Laws, SB 225, Chap. 26
Clarifies that the Safe Haven for Infants Act is not intended to abridge the rights or obligations created by ICWA. Requires that a hospital ask a person leaving an infant whether the infant has a parent who is a member of an Indian tribe. Requires the hospital to provide the Department of Children, Youth and Families with all available information regarding an infant left pursuant to the Safe Haven for Infants Act. Provides that a parent of an infant left at a hospital shall have standing to participate in all proceedings regarding the child.

SOUTH DAKOTA

2005 S.D. Sess. Laws, HB 1226, Chap. 139
Requires that, in any proceeding to which ICWA applies, the state’s attorney notify the parent or Indian custodian and Indian child’s tribe of the pending proceedings and of their right of intervention. Specifies requirements related to the form, timing and content of the notice.
TEXAS

Texas January 2006 report on disproportionality in the state:


July 2006 Texas evaluation and remediation of disproportionality in CPS report:


On January 2006, HHSC and DFPS submitted an analysis of disproportionality in the Texas child welfare system to the Texas legislature. A major finding was that African-American families were less likely than Anglo families to receive in-home family services to prevent child removal in three areas of the state. CPS training for all new caseworkers has been revised to include additional information on disproportionality, including the “Knowing Who You Are” video produced by Casey Family Services. “Undoing Racism” training, by the Peoples Institute of New Orleans, was provided to CPS management statewide. Partnerships with communities to address the problem of disproportionality have begun in Houston, Arlington, and Fort Worth. The work includes convening a Community Advisory Committee of people from the local area, attending “Undoing Racism” training, selecting pilot sites and testing practice improvements. The purpose is to identify best practice changes and replicate successes for families statewide. Disproportionality specialists have been hired in Houston, Dallas, Ft. Worth, and Beaumont/Port Arthur to support the community’s work on disproportionality and to serve as resources to CPS staff. Policy is being reviewed and updated to reflect family friendly principles including disproportionality efforts. Proposals are in process of planning and presentation, which involves traditional and non-traditional supports to families that focus on strengths and needs to enhance engagement.

2005 Tex. Gen. Laws, SB 6, Chap. 268
Sec. 1.54. Requires the Health and Human Services Commission and Department of Family and Protective Services to analyze data regarding child removals and other enforcement actions during state fiscal years 2004 and 2005 to determine whether enforcement actions were disproportionately initiated against any racial or ethnic group. Requires a report no later than January 1, 2006. Requires a remediation plan to prevent racial or ethnic disparities and an evaluation of policies and procedures if the results of the analysis indicate disparate treatment of racial or ethnic groups. Requires a report on the evaluation and remediation plan by July 1, 2006.

WASHINGTON

Washington House Bill 1472, Signed into law

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Evidence Based Practice in Child Welfare
in the Context of Cultural Competence

Sponsored by Representative Pettigrew, link to page with bill history and all versions of the bill including as introduced:

HB 1472 – DIGEST AS ENACTED

Directs the secretary of the department of social and health services to convene an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in Washington's child welfare system. The department shall collaborate with the Washington institute for public policy and private sector entities to develop a methodology for the advisory committee to follow in conducting a baseline analysis of data from the child welfare system to determine whether racial disproportionality and racial disparity exist in this system. The Washington institute for public policy shall serve as technical staff for the advisory committee. In determining whether racial disproportionality or racial disparity exists, the committee shall utilize existing research and evaluations conducted within Washington state, nationally, and in other states and localities that have similarly analyzed the prevalence of racial disproportionality and disparity in child welfare. Provides that, at a minimum, the advisory committee shall examine and analyze: (1) The level of involvement of children of color at each stage in the state’s child welfare system, including the points of entry and exit, and each point at which a treatment decision is made; (2) The number of children of color in low-income or single-parent families involved in the state’s child welfare system; (3) The family structures of families involved in the state's child welfare system; and (4) The outcomes for children in the existing child welfare system. This analysis shall be disaggregated by racial and ethnic group, and by geographic region. Requires that, not later than January 1, 2008, the secretary shall report the results of the analysis conducted under this act and shall describe the remediation plan required under this act to the appropriate committees of the legislature with jurisdiction over policy and fiscal matters relating to children, families, and human services. Beginning January 1, 2010, the secretary shall report annually to the appropriate committees of the legislature on the implementation of the remediation plan, including any measurable progress made in reducing and eliminating racial disproportionality and disparity in the state's child welfare system.

2006 Wash. Laws, HB 3182, Chap. 90
Recognizes the ability of the Indian tribes within the state to enter into agreements with the state to license agencies located on or near the federally recognized Indian reservation to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care. Authorizes the department to enter into written agreements with Indian tribes within the state to define the terms under which the tribe may license agencies. Provides that the department and its employees are immune from civil liability for damages arising.

Compliments of:
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